

CITY OF ALAMO HEIGHTS  
CITY COUNCIL  
April 14, 2008

A regular meeting of the City Council of the City of Alamo Heights, Texas was held at the Council Chambers, 6120 Broadway, at 5:30 p.m. on Monday, April 14, 2008.

Present and composing a quorum were:

Mayor Louis Cooper  
Mayor Pro-Tempore Bobby Rosenthal  
Councilman Stan McCormick  
Councilwoman Jill Souter  
Councilman Bill Kiel  
Councilwoman Susan Harwell

Also attending were:

City Manager Rebecca Waldman  
City Attorney Mike Brenan  
Assistant to City Manager/Information Technology Manager Marian Ramirez  
Human Resource Manager/Deputy City Secretary Judith E. Surratt  
City Secretary Denise M. Silva  
Public Works Director Shawn P. Eddy  
Police Chief Rick Pruitt  
Interim Fire Chief/EMS Administrator Bill Woodward  
Community Development Manager Jack Guerra  
Temporary Assistant Leticia M. Callanen

Absent was:

Finance Director Cynthia Barr

\* \* \*

Mayor Louis Cooper called the meeting to order at 5:35 p.m.

\* \* \*

Mayor Cooper asked City Council for any corrections to the minutes of the March 24, 2008, City Council Meeting. A motion was made by Councilman Stan McCormick to approve the minutes with a minor correction. Motion was seconded by Councilwoman Susan Harwell and passed by unanimous vote.

\* \* \*

City Manager's Report - There was none

\* \* \*

### Citizens To Be Heard Concerning Non-Agenda Items

Ms. Meredith Hansen, 115 Grandview Place, expressed her concern with the way the board meeting agendas are publicized. In response, City Manager Rebecca Waldman explained that all agendas are posted on the City's website, but staff would look into her question.

\*

\*

\*

### Staff Reports

*Item #3* Discussion related to "special building heights" that exceed the height regulations in the Alamo Heights Zoning Code, as requested by Councilman Bill Kiel.

Shawn P. Eddy, Public Works Director presented a PowerPoint presentation and outlined options to address concerns with the City's Zoning Code that regulates "special building heights". A copy of this presentation is made part of the papers of this meeting.

Councilman Bill Kiel explained the background of his request in that the provisions, dating back to 1963, refer to allowing churches or schools to erect structures above two and one-half stories, and apartment buildings above ten stories with certain conditions related to setback and side yard considerations. He further expressed his concern with the fact that there is limited governing review and approval required for these types of requests and recommended that they be included under Specific Use Permit (SUP) category of the Zoning Code.

In a response to Councilman Rosenthal, Councilman Kiel explained that he has been reviewing this over the last two years and has not engaged stakeholders during his review.

Further discussion took place regarding the setback requirements and staff informed Council that those considerations could be taken up on a case by case basis by requiring the requests to go through the same process as a typical SUP. Staff also explained that this proposed change to the Zoning Code could be viewed as an interim step before being revisited during the development of the Comprehensive Plan.

After discussion, City Council gave direction to staff to pursue the option to relocate the "special building heights" provisions to be considered under the Specific Use Permit (SUP) category, thus requiring the same procedures be followed prior to construction of any structure that may exceed standard building heights.

*Item #4* Staff presentation on proposed new street name signage and installation

Mr. Shawn P. Eddy, Public Works Director presented City Council with a proposed design and outlined the process that would be used to secure competitive bids for the production and installation of new street name signage that will replace street name signage throughout the City of Alamo Heights. Mr. Eddy noted that existing Stop signs that are co-located on posts with street name signs will also be replaced. A copy of this presentation is made part of the papers of this meeting.

Discussion took place regarding the sign design, height and the choice of galvanized steel posts as opposed to break-away posts since studies do not conclusively indicate added safety in low speed traffic situations.

Further discussion took place regarding the estimated cost, the bid process, sign placement and Council's preference of adding block numbers on all signs in an effort to be consistent and more user-friendly.

After further discussion, Mr. Eddy stated that the item had been reviewed favorably by the Infrastructure and Services Committee and that upon award of the bid, installation could happen within 60 to 90 days.

At this time, Mayor Cooper recognized citizens wishing to speak on this item.

Ms. Margaret Houston, 140 Patterson Avenue, expressed her support of the project and to the quality of the installation.

In response to Councilwoman Harwell, Mr. Eddy stated that the costs, estimated at \$85,000, will include installation and is within the City's six month extended budget.

\*

\*

\*

#### Consent Items

Mayor Cooper read the following captions.

*Item #5.* Request for permission for refund of property tax overpayment to David Davis and Emin Saglam, owners of property at 211 Inslee, in the amount \$534.74 as a result of a decrease in property valuation.

*Item #6.* Request for permission for refund of duplicate or erroneous property tax payment to David Kaplan, owners of property at 135 College Boulevard, in the amount \$1,198.72 – Cynthia Barr, Finance Director

*Item #7.*

#### AN ORDINANCE 1764

REPEALING ORDINANCE NO. 1759 AND AUTHORIZING INTERLOCAL AGREEMENTS BETWEEN THE CITY OF ALAMO HEIGHTS AND THE CITY OF TERRELL HILLS AND THE CITY OF ALAMO HEIGHTS AND THE CITY OF OLMOS PARK FOR THE USE OF EACH OTHER'S FIRE EQUIPMENT UNDER CERTAIN CIRCUMSTANCES AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE CHAPTER 791 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS ON BEHALF OF THE CITY OF ALAMO HEIGHTS.

A motion was made by Councilwoman Jill Souter to approve the consent items. Motion was seconded by Councilwoman Susan Harwell and passed by unanimous vote.

\*

\*

\*

Items for Individual Consideration.

*Item #8*

William Woodward, Interim Fire Chief, provided background information to the proposed agreements with the Cities of Olmos Park and Terrell Hills for the continuation of EMS services. Interim Chief Woodward stated that negotiations have taken place with staffs of both cities, who are in agreement with the terms of the agreement for the shared EMS service. Key provisions in the agreement includes an initial 3 year contract term with a new termination clause and stipulates that the City of Alamo Heights owns, maintains and operates the system with an increased budget contribution of 60%, up from 49%, with 27% from Terrell Hills and 13% from Olmos Park. Interim Chief Woodward stated that the contributions align with the average call volume. A copy of the presentation is made part of the papers of this meeting.

Interim Chief Woodward responded to Council questions regarding the increased contribution and explained that the amount is reasonable based on the number of calls that are received from within Alamo Heights and allows the City to increase the staffing level of first responders.

After further discussion, Councilman Kiel made a motion to approve the ordinance. Councilwoman Harwell seconded the motion and it passed by unanimous vote.

*Item #9* At this time, Mayor Cooper announced that item number 9 had been pulled from consideration and will be reconsidered at the next City Council Meeting.

*Item #10*

Mayor Cooper read the following caption.

Consideration of a request for a Demolition Permit and of Architectural Review Board Case No. 292 for 107 Eaton Street, a property zoned Multi-Family D, request submitted by Joseph Koizen, represented by Peter DeWitt, Architect

a. Request for a Demolition Permit to demolish the existing one-story house and attached garage for the purpose of constructing a new two and one-half story two-unit condominium with two detached garages

b. Architectural Review Board Case No. 292 – Recommendation to approve the design of a new two and one-half story two-unit condominium with two detached garages, except for the final landscape plan, on property zoned Multi Family – D

Mr. Jack Guerra, Community Development Manager, presented a PowerPoint presentation that outlined the existing and proposed site plans and discussed the standard under which the height was measured and noted that this item has been through the Architectural and Review Board process. Mr. Guerra also noted that a total of 5 written communications were received in support of the project.

Mr. Guerra recommended that a motion be made to approve the demolition request and approval of ARB Case 293 with the exception of the final landscape plan which shall be brought back to City Council for final approval.

Mr. Stan McCormick raised a question regarding the number of trees to be removed from the property, and in response Mr. Guerra stated that only one would be removed.

In response to a question from Councilman Bill Kiel regarding drainage, Mr. Peter DeWitt stated that a full study would be done but in general the water flow would be redirected using the driveway which is in compliance with LEED certification.

Ms. Erica Becvar, 301 Abiso Avenue, spoke favorably of the project, especially for the architect's attempts to become LEED certified. She further recommended that this effort be highlighted in the City's newsletter.

In response to Council, Mr. DeWitt provided a brief explanation of the Leadership in Energy and Environmental Design (LEED) certification program, which awards points for residential projects that utilize building practices that improve a home's energy efficiency. Mr. DeWitt further explained that building in a higher density environment raised the point level for certification in this case and requires certain considerations be made for addressing runoff, drainage and limiting waste. Mr. DeWitt also discussed the changes made to the window configurations making them higher on the wall, which was done in response to a neighbor's request.

Councilman Bill Kiel and Councilwoman Susan Harwell spoke in support of proposed request and the LEED Certification aspect of the project.

Councilwoman Jill Souter made a motion to approve the demolition request. The motion was seconded by Councilman Bobby Rosenthal and passed by unanimous vote.

Councilwoman Jill Souter made a motion to approve ARB Case 292 with the condition that the final landscape plan come back to Council for approval. The motion was seconded by Councilman Stan McCormick and passed by unanimous vote.

Councilwoman Susan Harwell commented while there are times that a teardown is not appropriate, that this is a situation where a teardown is appropriate.

#### *Item #11*

Mayor Cooper read the following caption.

Consideration of a revised house design at 309 Abiso, under the Demolition Delay Ordinance No 1957 (August 8, 2005) and Appendix A: Zoning Regulations (August 1963), requested by D. Carl Kocurek, Jr., owner, in order to receive a building permit to construct a two-story house with a front porch and circular drive and a rear yard two-story detached garage.

Mr. Jack Guerra, Community Development Manager, presented a PowerPoint presentation outlining the background with regard to the original request which is considered vested under the previous Demolition Delay provisions. A copy of this presentation is made part of the papers of this meeting. Mr. Guerra stated that it was staff's recommendation to approve the request with a condition that the circular drive is eliminated from the plan and only one curb cut is allowed.

Lengthy discussion by City Council took place regarding the positive and negative aspects of the proposed circular driveway. Alternative approaches were suggested to meet the owners' needs with respect to Appendix A: Zoning Code Regulations.

Councilman Stan McCormick requested information regarding the number of trees on the property and suggested that staff provide more specificity on trees in the future. Mr. Guerra noted the request by Council and stated that there was possibly one heritage tree at the rear property line.

At this time, Mayor Cooper recognized citizens who signed to speak to this item.

Mr. Joe Wilson, 316 Argo Avenue, spoke in support of the revised design.

Mr. Joe Imber, 306 Abiso Avenue, spoke in support of the revised design and to his concerns with a circular driveway.

Ms. Erica Becvar, 301 Abiso Avenue, spoke in opposition to the circular driveway and in favor of a parking pad.

Mr. Carl Kocurek, owner, addressed City Council with regard to the proposed circular driveway and highlighted modifications that they had made in light of concerns voiced by their neighbors. In response to Council questions, he explained that the "tower" was simply an architectural element designed for the stairwell and to allow for natural light; and stated that the second story of the garage would be used as an office or workroom with a bathroom; and that one tree would need to be removed because of the detached garage.

Ms. Margaret Houston, 140 Patterson Avenue, expressed her support of the circular driveway to alleviate any potential on-street parking issues caused by the owners' large vehicles.

Discussion ensued regarding the length and width of the proposed circular driveway, the dimensions of the rear driveway and the option of constructing a parking pad in lieu of a circular driveway. Several Council members voiced their preference for allowing a circular driveway as opposed to a less attractive parking pad that could be constructed without the need for Council approval since the actual parking area will be on private property. Further discussion took place related to possible landscape design elements and types of materials that could be used to create a more visually appealing circular driveway.

At this time, Councilwoman Jill Souter made a motion to approve the project as presented with the condition that the circular driveway be eliminated. Motion was seconded by Councilwoman Susan Harwell. The motion failed by the following vote. **Voting Aye:** Souter, Harwell; **Voting Nay:** Rosenthal, McCormick, Kiel.

At this time, Councilman Bobby Rosenthal made a motion to approve the project without conditions. Motion was seconded by Councilman Bill Kiel. The motion passed by the following vote. **Voting Aye:** Rosenthal, McCormick, Kiel; **Voting Nay:** Souter, Harwell.

*Item #12*

Mayor Cooper read the following caption.

Consideration of amendments to a demolition permit issued for 521 Lamont, requested by John Grable, to demolish 100% of the roof instead of 42% of the roof structure as originally approved by the City Council on November 27, 2006.

Mr. Jack Guerra, Community Development Manager, presented a PowerPoint presentation that gave the background of the request stating that a discrepancy in the permit process was discovered after responding to a citizen complaint related to height and side yard setbacks. Once onsite, the staff saw that the entire roof was removed, which was in violation of the demolition request approved by City Council in November 2006 for 42% removal of the roof structure.

Mr. Guerra informed Council that one written response was received in favor of the request. Councilman Bill Kiel noted for the record that he was aware of at least two written oppositions to the request, however they may have gone directly to Council members and not the staff.

At this time, Mayor Cooper advised the attending public that this matter before City Council was strictly to discuss the roof structure and then recognized individuals who wished to speak to the item.

Mr. Brian Brady, 515 Lamont Avenue, spoke at length of his understanding of the history of the project and to his objections to the amended demolition permit request because of his concerns with the original meeting notification process, in addition to several perceived violations of the original permit by the contractor related to the height of the garage slab and the roof of the main structure. He requested that Council deny this request and require the applicant to start the permit process all over.

Mr. Guerra stated in response to questions regarding the height of the roof, that the plans illustrate a 9 foot ceiling and that the applicant is meeting their permit requirements.

Councilman Kiel explained that he became aware of this situation because of a complaint he received from a neighboring resident. He recounted his initial investigation into the complaint and provided his colleagues with his observations of the situation and

stated that he recalls hearing complaints about the garage which was approved during the 2006 Council meeting, but heard very few criticisms of the plans for the house. He further stated that the request is grandfathered or vested under previous building standards and he does not believe it was the intent of the applicant to misrepresent their plans at the time the original permit was granted.

Mr. David White and his wife, Sunita White, 527 Lamont Avenue, expressed their opposition to the request and discussed their concern with possible violations of the City's tree ordinance by the applicants with regard to cutting tree roots to accommodate a slab.

There was much Council discussion concerning: 1) the original plans that included 9 foot ceilings, which were approved in November of 2006 by City Council; 2) tree preservation issues; 3) the applicant being vested under the building code previous to the new code adopted after the date of the original application; 4) changes made to the plans to address neighbor's concerns; 5) options of the Council to either deny or approve the request as presented.

City Attorney Mike Brenan clarified for Council that if a tree was cut after the adoption of the City's tree ordinance than that would be in violation of the tree ordinance. He further clarified that if the City Council denies the amended permit, the applicant would have to restore the roof portion that was inadvertently torn down to its original design and then continue with the rest of the project. He further advised that the appropriate action by City Council would be to levy the proposed penalty, serving as a deterrent for future developers to repeat similar violations.

Mr. John Wright, property owner, responded to concerns regarding the trees on the property. He discussed efforts to redesign the plans in order to limit potential damage to an existing tree and stated that he hired a tree consultant to further provide recommendations on protecting the affected tree.

In response to Councilman Kiel, Mr. Guerra stated that the design for the house is in compliance with the current Code except for the height and 3 foot setback of the garage structure, which is compliant with the Code under which it is grandfathered.

Ms. Melissa Greene, 514 Castano Avenue, discussed her reasons for being in opposition to the amended request because of her concerns with the meeting notification and citizen input process utilized by the owners, the timeliness of the project, the proposed fine, and the potential tree issue. Mr. Wright responded to the claim that there may have been a misrepresentation in the minutes from the 2006 Council meeting about the neighbors providing a verbal agreement and noted that the issue had been taken up during the mediation meeting that was set up at Councilman Kiel's request and further explained the reasons for the delay in the construction due to family matters.

Mr. Bruce Kibodeaux, 518 Castano Avenue, stated that he lives directly behind the property and is in opposition to the amended request based on the same reasons previously stated by his neighbors. He also presented the Council with photos of the property taken from his vantage point in his backyard.

Councilman Kiel took the opportunity to restate that the date on the original application by the owners is what qualifies the project to fall under the older building standards and that regardless of what action the City Council takes at this meeting, they will still be vested under the earlier standards. He also stated that the minutes reflect that the concerns expressed by Mr. Kibodeaux about the placement of the windows were subsequently addressed by owner.

Dr. Mark Greene, 514 Castano Avenue, recounted his experience with remodeling his own home and the compromises in his plans he made to accommodate requests made by his neighbors. Dr. Greene discussed his attempts at notifying the owner of his objections with the construction of the two story garage and expressed his frustration with how the process was followed for this project.

Mr. Charles Jeffers, 510 Castano Avenue, expressed his opposition to the construction of a two-story garage because he feels that it appears to be for a multi-family purpose.

Mr. Derrek Weaver, 502 Castano Avenue, spoke in favor of the request and expressed his concern with potential breaches in private property and privacy laws by some of the residents who admittedly trespassed onto Mr. Wright's property.

Ms. Jamie Boener, 727 Patterson Avenue, expressed her general concern with the process of granting permits to individuals for projects and then those projects not happening as planned or presented.

Ms. Margaret Houston, 140 Patterson Avenue, discussed the notification issue that was raised by several citizens and asked why an inspector was not available to inspect the work in progress.

Mr. Wright reiterated his case for approving the amended request and provided a brief account of the project's progression, beginning with the architect selection process, to the mediation process, to the current request before City Council. He emphasized the following: 1) the original structure is not historic or significant as it was built in the 50's and was remodeled in the 70's; 2) the plans are in compliance with current applicable rules and regulations except for the set back of the first floor of garage, but a compromise was made resulting in a 5 foot setback on the 2<sup>nd</sup> floor of the garage; 3) the proposed design is compatible with the character of the neighborhood in size, scale, architectural features, materials, colors and landscaping. He also described the efforts he has made to meet with his immediate neighbors' and devise workable solutions to some outstanding issues.

More discussion took place related to the height of the roof and the ceilings of the main structure. Councilwoman Jill Souter provided comments in support of staff's work in calculating an appropriate penalty and shared positive experiences working with John Grable. Councilwoman Souter also acknowledged the importance of protecting private property and privacy rights of all residents.

Discussion by Council ensued related to questions about the notification process, the percentage of demolition of the structure, and the permit application and review

process. In response, Mr. Guerra stated that the office has established stricter procedures for demolition permits that will require inspections. Councilman Kiel made the suggestion that residential demolition permit requests be reviewed at the Architectural Review Board level prior to City Council consideration.

In reply to a question from Councilwoman Souter related to Council's options for taking action on this item, Mr. Guerra explained the steps that would need to be taken by staff and the applicant if Council denied the request to include issuing a stop work order and requiring the applicant to acquire a new permit in order to reconstruct the roof to the original building, causing further delays in the completion of the project. He further explained that if the request is approved, the applicant would be required to do the same reconstruction of the roof, but it would allow them to simultaneously work on other parts of the project.

After more discussion, Councilwoman Souter made a motion to approve the request for an amended demolition permit as presented, to include the assessment of a fine of \$5,000 to the applicant. Motion was seconded by Councilman Rosenthal. The motion passed by the following vote. **Voting Aye:** Rosenthal, Souter, McCormick, and Kiel. **Voting Nay:** Harwell with dissenting comments.

\*

\*

\*

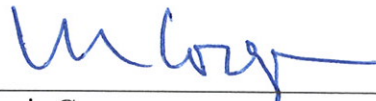
All regular agenda business being concluded, Mayor Cooper announced that after a short break, the City Council would conduct a closed meeting with its attorney to seek advice regarding a pending Equal Employment Opportunity Commission (EEOC) matter as authorized in Section 551.071 of the Texas Government Code and the regular meeting adjourned to Executive Session at 9:52 p.m.

\*


\*

\*

The Mayor reconvened the regular meeting at 10:13 p.m. As there was no action to be taken on the business discussed in the closed session, the Mayor adjourned the regular meeting at 10:14 p.m.



Louis Cooper  
Mayor



Judith E. Surratt  
Deputy City Secretary